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MONTANA
TELECOMMUNICATIONS
ASSOCIATION

Robert Adams, President
Geoffrey A. Feiss, General Manager

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April 14, 1999

Ms. Margalie R. Salas, Secretary
The Federal Communications Commission
The Portals Building
445 12th Street, SW
TW-A325
Washington, D.C. 20554

Dear Ms. Salas,

On April 12, a delegation of Montana independent telecommunications industry representatives met with the FCC in an ex parte meeting to discuss FCC policies of interest to Montana telecommunications service providers.

The issues included:

1. Universal Service (FCC Docket No. 96-45)/ MTA emphasized the need to ensure against applying decisions made in the non-rural universal service proceedings to rural companies.
2. Access Reform (FCC Docket No. 97-368). MTA noted rural companies rely heavily on universal service and access for revenues used to keep residential rates affordable and comparable and for investment cost recovery to keep services comparable to those provided in more densely populated areas. Access reform cannot simply reduce access prices without appropriate consideration of investment cost recovery for rural companies.
3. Slamming Rules (CC Docket No. 94-129). MTA expressed its concern that new anti-slamming rules actually will exacerbate, rather than mitigate, slamming. MTA companies were able to confirm through direct verification with the customer that as much as 80 percent of the PIC change orders were the result of slamming. Under the new order, MTA companies will need to execute change orders without the ability to confirm them.
4. Communications Assistance for Law Enforcement Act (CALEA). MTA expressed its concerns about the potentially over-burdensome implementing regulations and about the consequences for rural telcos if funding for FBI's "software fix" is exhausted before it reaches rural switches.

We met with FCC Common Bureau staff, including Lisa Zaina, Associate Bureau Chief; Doug Slotten, Competitive Pricing Division; Irene Flanery, Accounting Policy Division; Kim Parker, Enforcement Division. We also met with Jim Green, Special Counsel, Wireless Bureau.

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Attached is a copy of a document we provided to FCC staff prior to our meeting which summarizing the issues we discussed. Also attached is a list of the people comprising the Montana delegation in attendance. Finally, Ms. Jill Canfield of NTCA accompanied the Montana delegation.

Sincerely,

Geoffrey A. Feiss
General Manager

enclosure

cc. Ms. Lisa Zaina, Common Carrier Bureau
Ms. Irene Flanery, Common Carrier Bureau
Doug Slotten, Common Carrier Bureau
Kim Parker, Common Carrier Bureau
Jim Green, Wireless Telecommunications Bureau
Ms. Jill Canfield, NTCA

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MONTANA DELEGATION MEETING WITH THE FEDERAL COMMUNICATIONS COMMISSION

at the FCC, Portals Building
12th Street, SW, and Maine Avenue

Monday, April 12, 1999
4:00 p.m. - 5:00 p.m.

FCC Staff

Lisa Zaina, Associate Bureau Chief, Common Carrier Bureau
Ellen Blackler, Special Assistant, Common Carrier Bureau
Katherine Schroeder, Counsel, Common Carrier Bureau

Topics for Discussion

1. Implementing rules for the Communications Assistance for Law Enforcement Act (CALEA)

2. Universal Service (FCC Docket No. 96-45)

3. Access Reform (FCC Docket No. 97-368)

4. Slamming Rules (CC Docket No. 94-129)

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About Montana's Rural Telcos

Montana's independent rural telephone companies provide service covering over 80 percent of the state's geography, or nearly 120,000 square miles, and about 30% of Montana's telecommunications service consumers. The combination of tremendous areas served and low population density means that the average rural Montana telephone company serves fewer than 2.8 access lines per mile of line. (Montana's cooperatives serve fewer than 1.6 access lines per mile.) Further, with fewer high-revenue business customers than large companies serving more densely populated areas, rural telephone companies have fewer revenue sources from which to recover their vital (and expensive) network investments.

Nationwide, nearly 500 rural independent telephone companies serve roughly 5 million telephone consumers, or 3% of the nation's subscribers. Yet, these small companies cover about 40% of the nation's geography. These independent companies serve an average of 20 subscribers per mile. In contrast, large telephone companies have more than 400 access lines per mile, 36% of which serve high-margin business customers.

Montanans enjoy some of the most advanced telecommunications services in the nation. Montana's rural independent telephone companies invested over $50 million in network infrastructure in 1998 alone. This infrastructure, which includes nearly 5,000 miles of fiber plant and over 90 full-motion video conference sites across the state, provides Montana's consumers with state-of-the-artdigital telephony, cable, video, wireless, Internet and other telecommunications products and services.

Meanwhile, competition in Montana is increasingly vibrant. Mid-Rivers Telephone Cooperative, for example, invested over $11 million in 1998 in new technology and plant to compete in Terry, Glendive and other Eastern Montana towns. Similarly, Blackfoot Communications is investing millions in the Missoula area, offering alternative wireline and wireless services to its consumers. Competitive local exchange companies (CLECs) have set up in Billings, Bozeman and elsewhere.

Threats to Investment in Rural America

Telecommunications companies rely on the "three-legged stool" (rates, access and universal service) to provide affordable telecommunications service to consumers, regardless of where they live, and to continue investing in advanced telecommunications infrastructure. In fact, access and universal service combined account for as much as 80 percent of these companies' revenues, which in turn are used to keep rates affordable, and to maintain appropriate levels of investment in network infrastructure.

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Changes to Universal Service Support Mechanisms. It is particularly important to rural states like Montana that universal service is fully funded. There is no mandate that states fund any of this support mechanism. Yet, the Federal Communications Commission (FCC) has proposed changes in the level of universal service support that could force states like Montana to incur prohibitively expensive costs. While the FCC has backed away from earlier proposals to fund only 25% of universal service support from the interstate jurisdiction, it has not acknowledged that the Telecommunications Act of 1996 (Section 254) requires the FCC to ensure the "preservation and advancement of universal service."

Rural telephone companies receive a disproportionally large amount of universal service support to maintain affordable, quality service and investment levels. Also, there are fewer customers from which to recover reductions in universal service support, either through rate increases, or investment decreases. It takes only a small reduction in national universal service support to make a tremendous difference on a rural state's support levels.

Some companies have been arguing to reduce universal service support. They contend that universal service has created "donor" and "donee" states (or companies). This argument, however, fails to recognize the need for residents of New York, for example, to reach consumers in Montana. Without universal service functioning properly, US WEST effectively would not be able to conduct the sale of its rural exchanges through a New York financial institution. Consumers would not be able to afford to order items through catalogues, to the benefit of both Montanans and catalogue companies. Universal service is an efficient, inexpensive way to bring urban and rural consumers together to the mutual benefit of each.

Other threats to universal service come in the form of cost models which don't work. In an effort to base costs on a "forward looking" cost methodology, the FCC has proposed models which so far do not accurately reflect the cost of running a telecommunications business. Additionally, the issue of universal service "portability" has not been resolved. If additional eligible telecommunications carriers (ETCs) are established, and appropriate universal service mechanisms are not in place first, then rural consumers could be left stranded with unsupported, high cost services.

Access Charge "Reform:" As noted above, universal service and access charges together account for as much as 80 percent of rural telephone companies' total revenues. Nothing in federal law requires the FCC to reduce access charges, but the Commission appears committed to reducing these rates, to the benefit of long distance carriers' bottom lines, but to the detriment of high-cost, rural consumers. If access charges are forced lower by regulatory fiat, either universal service support or rates --or both-- will need to increase. With universal service already under attack, it is unlikely that there will be much support for expanding universal service support mechanisms. Likewise, there is little support for increasing rates. Indeed, the Telecommunications Act of 1996 requires rates and services to be comparable between rural and urban areas. Alternatively, companies could reduce their level of network investment. But this again potentially would conflict with TA 96's requirement for comparable services if investment were curtailed to such a point that service quality would suffer. Moreover, access charge reductions do not necessarily result in lower rates, particularly for rural consumers.

Meanwhile, federal laws and regulations are imposing ever-increasing cost burdens on telephone companies, small and large alike. For example, local number portability (LNP), the Communications Assistance for Law Enforcement Act (CALEA), interconnection, customer proprietary network information (CPNI) and dialing parity requirements all impose significant cost requirements on companies, with little or no cost recovery opportunities.

IMPLEMENTATION OF THE TELECOMMUNICATIONS ACT OF 1996

In implementing the Act, it is essential that the FCC preserves the Act's central objective: to ensure access by all Americans to affordable, advanced telecommunication services. This objective cannot fall victim to the mantra of competition at any cost. The current balance between universal service, access, and rates is working. Both rural and urban telecommunications markets are increasingly competitive, and consumers continue to benefit from affordable, quality services.

SLAMMING/CRAMMING

Probably the most frequently cited consumer issue, slamming and cramming have been the subject of both federal and state policy reforms. The FCC has recently issued regulations requiring written or third party verification of customer requests to change long distance carriers, or to lift customers' requests to "freeze" their current choice of carriers. Similar regulatory safeguards have been implemented in Montana. Additionally, the State Legislature is nearing final approval of a measure to impose similar consumer safeguards against cramming.

Prior to the promulgation of the FCC's new rules, Montana's independent telephone companies personaly verified each consumers' request for changing, or freezing, long distance carrier choices. While this took extra time and effort, it indicated the extent to which Montana's independent phone companies go to serve their consumers. As a result, there were practically no consumer slamming compaints from Montana's independent phone company service areas. MTA notes with regret that the new FCC rules prohibit the very anti-slamming policy which was proven most effective in Montana.

FCC CHAIRMAN, WILLIAM KENNARD, ON RURAL TELECOMMUNICATIONS
Speech to OPASTCO, January 12, 1998

"The great challenge that we face is to make sure that as we transition from monopoly regulation to competition, the small companies have the resources and the incentives to ensure that competition builds communities.

"This is a challenge because...you are more vulnerable to cream skimming. One or two large businesses may generate the majority of your interstate minutes of use...

"This is a challenge because many of you have costs that are higher than price cap local exchange carriers. Because you often serve areas that are less densely populated, you have longer loops and more expensive transport.

"This is a challenge because many of you have higher network construction costs due to difficult terrain. And because you serve smaller populations, you may not be able to achieve the same economies of scale that larger carriers can achieve.

"This is a challenge because on average...you receive more than half of your total revenues from interstate access and universal service, compared to just over 25 percent for the price cap carriers.

"So because of these challenges, we must work hard to make sure that as the regulatory environment changes in this great shift from monopoly to competition, it is flexible enough to accommodate the special needs of your communities."